

Appl. No. 09/447,378
Amdt. Dated June 1, 2004
Reply to Office Action of December 29, 2003

Attorney Docket No. 81784.0014
Customer No.: 26021

REMARKS/ARGUMENTS

Claims 1-5, 10, 11, 15-17, 19, 20, 24, 25 and 39 are pending in the application.

In paragraph 2 on page 2 of the final Office Action of December 29, 2003, claim 25 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,097,466 of Koma. In paragraph 4 on page 3 of the final Office Action, claims 1-5, 10, 11, 15-17, 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over applicant's admitted prior art (AAPA) in view of Koma '466. These rejections are respectfully traversed.

In paragraph 5 on page 7 of the final Office Action, claims 24 and 39 are allowed. A statement of reasons for allowance follows.

Addressing the rejection of claim 25 under 35 U.S.C. § 102(e) as anticipated by Koma '466, it is noted that the Koma '466 reference is commonly owned with the present application. Consequently, claim 25 should not be rejected under 35 U.S.C. § 102(e) as anticipated by Koma '466, inasmuch as 35 U.S.C. § 102(e) is applicable only in the case where applicants are not the same party. Moreover, because the priority date (Japanese filing date) of the present application is November 27, 1998 and the Koma '466 patent was issued on August 1, 2001, the present application should not be rejected even under 35 U.S.C. § 102(b) which is applicable to a case where the applicants are the same party. Consequently, the rejection of claim 25 under 35 U.S.C. § 102(e) is inappropriate, and it is respectfully requested that such rejection be withdrawn.

With respect to the rejection of claims 1-5, 10, 11, 15-17, 19 and 20 under 35 U.S.C. § 103(a) as unpatentable over AAPA in view of Koma '466, Applicant notes that the law with respect to 35 U.S.C. § 103(a) changed on November 29, 1999. Because the present application was filed on November 23, 1999, Applicant is filing

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a CPA (Continued Prosecution Application) in order that the new law may apply. That being the case, 35 U.S.C. § 103(a) is not appropriate where the prior application or patent is owned by the same applicant, such as the case here. Therefore, the rejection of the claims under 35 U.S.C. § 103(a) is inappropriate in the present instance, and withdrawal of such rejection is also respectfully requested.

Applicant is enclosing an IDS (Information Disclosure Statement) making certain prior art of record.

Therefore, reconsideration and allowance are respectfully requested.

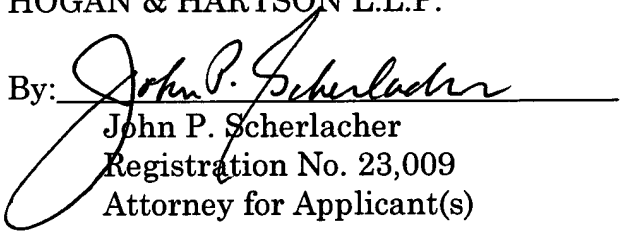
If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6742 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
HOGAN & HARTSON L.L.P.

Date: June 1, 2004

By:


John P. Scherlacher
Registration No. 23,009
Attorney for Applicant(s)

500 South Grand Avenue, Suite 1900
Los Angeles, California 90071
Phone: 213-337-6700
Fax: 213-337-6701